



**ARIZONA SUPREME COURT  
ORAL ARGUMENT CASE SUMMARY**

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**STATE OF ARIZONA v. CHRISTOPHER MATHEW PAYNE  
CR-09-0081-AP**

**PARTIES:**

*Appellant:* Christopher Mathew Payne

*Appellee:* State of Arizona

**FACTS:**

Christopher Mathew Payne and his girlfriend starved and abused Payne's two children, Ariana and Tyler, until they died in September of 2006. After the children died, Payne placed their bodies in a storage unit. The bodies remained there until employees of the storage facility discovered them after Payne stopped paying rent on the unit.

Payne was charged with two counts of first degree murder, three counts of child abuse, and two counts of concealing a dead body. A jury found him guilty of all charges. The jury also found three aggravating factors: that the murders were especially cruel, A.R.S. § 13-751(F)(6); that multiple homicides occurred from the same offense, A.R.S § 13-751(F)(8); and the victims were younger than 15, A.R.S § 13-751(F)(9). After finding no mitigation sufficiently substantial to call for leniency, Payne was sentenced to death for the murders.

**ISSUES:**

1. Did the trial court err by striking or refusing to strike certain jurors for cause?
2. Did the trial court err by failing to change the trial venue?
3. Were Payne's statements to police improperly admitted at trial because they were taken in violation of *Miranda* or involuntary?
4. Did the trial court improperly exclude statements made by Reina Gonzales?
5. Did the trial court err by allowing the State to introduce evidence that Payne was a heroin dealer?
6. Did the trial court err by not granting a mistrial or designating certain jurors as alternates after these jurors saw Payne in restraints?
7. Was the jury improperly instructed on the elements of child abuse?

8. Was the evidence sufficient to support Payne's conviction for child abuse?
9. Was the evidence sufficient to support Payne's conviction for first degree premeditated murder?
10. Were Payne's child abuse charges duplicitous?
11. Did the trial court err by not granting a mistrial or designating a juror as an alternate after the juror submitted a question to the court regarding the effects of finding Payne guilty of murder under multiple theories?
12. Did the prosecutor engage in misconduct depriving Payne of his rights to a fair trial and due process?
13. Did the trial court err by failing to provide adequate instructions to the jury on the multiple homicides aggravating factor?
14. Were the trial court's instructions to the jury on finding especial cruelty improper, or was the evidence insufficient to support such a finding?
15. Were the trial court's instructions to the jury on finding heinousness or depravity improper, or was the evidence insufficient to support such a finding?
16. Were Payne's constitutional rights violated by the failure to provide an *Enmund/Tison* instruction to the jury during the penalty phase?
17. Did the trial court improperly instruct the jury during the penalty phase regarding the legal effect of Payne's voluntary intoxication?
18. Did the trial court err by improperly excluding mitigation evidence during the penalty phase?
19. Did the trial court err by allowing the State to exceed the permissible scope of questioning when cross-examining Payne's expert during the penalty phase?
20. Did the jury abuse its discretion in sentencing Payne to death?

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